

ESTTA Tracking number: **ESTTA331619**

Filing date: **02/11/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Enrich Software Corp.
Granted to Date of previous extension	02/14/2010
Address	2681 Hochwald Court S.W. Calgary, Alberta, T3E 7M3 CANADA
Attorney information	Theodore D. Lienesch Thompson Hine LLP 2000 Courthouse Plaza NE; P.O. Box 8801 Dayton, OH 45401-8801 UNITED STATES Trademarks@thompsonhine.com, Ted.Lienesch@thompsonhine.com Phone:937-443-6958

Applicant Information

Application No	77658850	Publication date	08/18/2009
Opposition Filing Date	02/11/2010	Opposition Period Ends	02/14/2010
Applicant	RichRelevance, Inc. Suite 1150 275 Battery St. San Francisco, CA 94111 UNITED STATES		

Goods/Services Affected by Opposition


Class 042. All goods and services in the class are opposed, namely: Application service provider (ASP) featuring software which provides collaborative filtering and optimization services to enhance online shopping and ecommerce sites
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2491101	Application Date	09/18/1998
Registration Date	09/18/2001	Foreign Priority Date	NONE
Word Mark	ENRICH		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1994/05/00 First Use In Commerce: 1997/06/12 SOFTWARE FOR MAINTENANCE OF EQUIPMENT, NAMELY, VEHICLES AND ROLLING STOCK; MANAGEMENT SYSTEM SOFTWARE, NAMELY, SOFTWARE FOR ADMINISTERING, TRACKING, MONITORING AND MANAGING FIXED ASSETS, INVENTORY, VEHICLES, AND ROLLING STOCK, AND RELATED DOCUMENTATION

Attachments	75555271#TMSN.gif (1 page)(bytes) DAYTON-#603665-v1-EnrichNoORichRelevance.pdf (5 pages)(74685 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/tdl/
Name	Theodore D. Lienesch
Date	02/11/2010

1. Enrich Software Corp. (“Opposer”) is the leading North American vendor and developer of ERP (enterprise resource planning), asset management and maintenance software solutions for the transportation industry. Opposer also provides consulting, software, training and hosting services in support of its software. Such software is used to manage all of the data elements and provide reporting tools for such aspects of a business enterprise as equipment maintenance and materials, asset management, contracts, fuel billing, fuel tax processing, customer Web access, financial management, ad hoc reports and data analysis tools, transportation operations and warehouse management. Opposer’s software is also used in rental counter operation, lease and rental contract management and invoice tracking. Opposer’s software is provided to customers to run on customer computer systems (“Opposer’s Goods”), and Opposer provides such functionality to its customers from its Web site as an application service provider (“ASP”) (“Opposer’s Services”; Opposer’s Goods and Opposer’s Services collectively referred to herein as “Opposer’s Goods and Services”).
2. Also included in Opposer’s Services are implementation and training services directed to Opposer’s customers to train them in using and implementing Opposer’s Goods and Opposer’s ASP services. Such implementation and training services include on-site services, classroom training services and Web-based training services.
3. Opposer is the owner of U.S. Registration No. 2491101, issued September 18, 2001, for ENRICH (“Opposer’s Trademark”) for software for maintenance of

equipment, namely, vehicles and rolling stock, management system software, namely, software for administering, tracking, monitoring and managing fixed assets, inventory, vehicles and rolling stock, and related documentation in International Class 009 (“Opposer’s Registration”). Opposer’s Registration is incontestable.

4. Opposer, through predecessors-in-interest, has been using Opposer’s Trademark in connection with the advertising and marketing of Opposer’s Goods and Services throughout the United States. Such use of Opposer’s Trademark in connection with Opposer’s Goods has been continuous and exclusive since at least as early as May, 1994, and has been continuous and exclusive with respect to Opposer’s Services since prior to 2006.
5. Opposer’s Trademark symbolizes the extensive goodwill, reputation and consumer recognition built up by Opposer and Opposer’s predecessors-in-interest through substantial time, money and effort spent in advertising and promoting Opposer’s Goods and Services, and establishing Opposer’s Trademark in the minds of purchasers. As a result, Opposer’s Trademark has become, through widespread and favorable public acceptance and recognition, an asset of substantial value as a symbol of Opposer, its quality products and services, and its goodwill. Accordingly, Opposer’s Trademark has become so associated with Opposer that Opposer’s Trademark identifies Opposer.

6. RichRelevance, Inc. (“Applicant”) seeks to register the trademark ENRICH (“Applicant’s Trademark”) for “[a]pplication service provider (ASP) featuring software which provides collaborative filtering and optimization services to enhance online shopping and ecommerce sites” in International Class 042 (“Applicant’s Services”).
7. The application for Applicant’s Trademark was filed January 28, 2009 and given Serial No. 77658850 (“Applicant’s Application”). Applicant’s Application alleges intent to use Applicant’s Trademark in connection with Applicant’s Services. Opposer has been using Opposer’s Trademark in commerce in connection with Opposer’s Goods and Services since well prior to the filing date of Applicant’s Application.
8. On information and belief, Applicant’s Services are at least related to or overlap Opposer’s Goods and Services. For example, Opposer intends to provide ASP services that provide filtering and optimization services to enhance “ecommerce sites” under Opposer’s Trademark, and Applicant’s Services include ASP services used to manage business, which would include ecommerce.
9. Applicant’s Trademark is identical to Opposer’s Trademark. When Applicant’s Services and Opposer’s Goods and Services are taken into consideration, Applicant’s Trademark is likely to cause confusion and mistake among relevant purchasers.

10. Applicant's Trademark falsely suggests a connection between Applicant and Opposer. Applicant's Trademark is likely to cause purchasers to draw false conclusions about the nature or quality of Applicant's Goods under circumstances where such a conclusion will be material to the purchaser's deliberations regarding the purchase of such services.
11. The goodwill of Opposer's business under Opposer's Trademark is of substantial value, and Opposer will suffer irreparable harm should Applicant be permitted to use and register Applicant's Trademark for Applicant's Services.
12. If Applicant is permitted to use and register Applicant's Trademark in association with Applicant's Services, confusion in the trade resulting in damage and injury to Opposer would likely result by reason of the identity between Applicant's Trademark and Opposer's Trademark.

WHEREFORE, Opposer respectfully requests that the Board sustain this opposition in all respects and refuse registration of Applicant's Trademark, application Serial No. 77658850.

Respectfully submitted,

THOMPSON HINE LLP

By: /Theodore D. Lienesch/
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Certificate of Service

I hereby certify that a true copy of the forgoing Notice of Opposition was served on applicant by First Class Mail, postage prepaid, addressed to Farah P. Bhatti, Esq. and Lynne M. J. Boisineau, Esq., McDermott, Will & Emery LLP, 18191 Von Karman Avenue, Suite 500, Irvine CA 92612 this 11th day of February, 2010.

By: /Theodore D. Lienesch/